

09-CR-270  
11 CV 6007

RECEIVED  
IN CHAMBERS OF  
HON. STERLING JOHNSON, JR.

DEC 12 2011

TIME A.M. \_\_\_\_\_  
P.M. \_\_\_\_\_

Judge Johnson,

The government agrees to our Petitions for habeas and for coram nobis. I am communicating with The Court with government's knowledge and by agreement.

We request (and need) both Writs to issue. We believe ~~This Court~~ The Supreme Court has recognized and given District Courts authority to issue writs of coram nobis after completion of a sentence:

"[The District Courts have] power to vacate its judgment of conviction and sentence after The expiration of The full term of service." U.S. v. Morgan, 346 U.S. 502, 503, 512-13 (1954). I have attached a highlighted copy of Morgan.

In Foont v. U.S., 93 F.3d 76, 29 (2d Cir 1996), The Second Circuit established a 3-prong test.

Judge Knapp granted a writ of coram nobis "to avoid petitioner's expulsion from This country;" Urbina v. U.S., 992 F. Supp. 641, 644 (SDNY 1998).

Judge Haight granted a writ of coram nobis reducing a Petitioner's sentence to less Than one year, 2 1/2 years after completion of The sentence. U.S. v. Ko, 1999 WL 1216730 (SDNY 1999).

We need/would very much like The writ to

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issue and The Court to reduce Mesa's sentence to less than one year. In This way, he is not removable as an aggravated felon.

I argue in The habeas, and The government does not oppose The petition, That Mr. Mesa is not an aggravated felon for bribery by a public official and witness retaliation. The government and I have two concerns:

(1) if Congress amends The aggravated felony list and includes bribery by a public official, it is applicable retroactively. That is what happened in Ko, and led J. Haight to reduce The sentence.

(2) ICE attorneys may not agree with my position That Mr. Mesa's felonies are not aggravated felonies and They may well appeal a grant of a writ for habeas and we'll have to spend years litigating This case Through immigration courts and The Second Circuit.

Therefore, we ask to resolve This now with a reduction in sentence and Then granting our habeas on The grounds That ICE no longer has authority to detain + pursue removal.

Respectfully, Alexander QBL (and Allen Bole)